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Christian Bertin

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COHEN, PONTANI, LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

EXAMINER

CHOKSHI, PINKAL R

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/585,274	Applicant(s) BERTIN, CHRISTIAN	
	Examiner PINKAL CHOKSHI	Art Unit 2425	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/17/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 03/17/2009 with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection. See the new rejection below.

Specification

2. The amendment filed 03/17/2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

On pg.6, line 25, pg.7, line 3, and pg.8, line 17, Applicant amended specification read "*a device* for declaring a network recorder...", "*a device* for recording audiovisual content...", and "*a device* for discovering and submitting requests..." Original specification has a support for a network recorder and a communications terminal used in the method. However, Examiner can not find mentioned device and its functions in the original specification and/or drawings. Furthermore, the newly amended specification may raise issue of 112 2nd and possible 112 1st paragraphs rejections when claims, related to added subject matter, are filed.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claim 18** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Regarding claim 18, it is unclear when claiming "...unknown request..." It is ambiguous what the Applicant means by an unknown request. Applicant is asked to clarify. For the purpose of examination, it is the Examiner's position that any distance reads on above limitation and such is in accordance with broadest reasonable interpretation, and from the perspective of one having ordinary skill in the art.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1, 3-15, and 22-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 7,143,430 to Fingerman et al (hereafter referenced as Fingerman) in view of US Patent 7,171,677 to Ochiai (hereafter referenced as Ochiai).

Regarding **claim 1**, “a method for recording audiovisual content in a communications network including a network recorder configured to record audiovisual content broadcast on a plurality of broadcast channels” reads on a method of remote storing time schedule media programs received from cable television system on a delivery device based on the request received from a client over the network (abstract and col.3, lines 6-9) disclosed by Fingerman and represented in Fig. 1 (element 50).

As to “wherein said audiovisual content is recorded by the network recorder upon request of a user having a communications terminal which is configured to exchange information with said network recorder via said communications network” Fingerman discloses (abstract and col.5, lines 12-15) that the delivery system records the program requested by client terminal via Internet as represented in Fig. 1 (elements 11, 17, 50).

As to “said method comprising the steps of: declaring, by the network recorder, presence of the network recorder in the communications network, the declaration indicating at least: means for accessing said recorder” Fingerman discloses (col.5, lines 12-15, 37-39) that the clients and delivery system devices communicates with each other using communication network such as Internet where server maintains a list of the programs available on all the delivery systems available on the network as represented in Fig. 1 (element 17).

As to “a list of broadcast channels whose broadcast audiovisual content is recordable by the communications network recorder” Fingerman discloses (col.3,

lines 48-56) that the client receives a preferred program schedule or listing which shows the programs available to store at the delivery systems.

As to “said request including an identification of said audiovisual content to be recorded that comprises an unique reference of at least one of said requested audio visual content and an identification of an instance of said audiovisual content having at least an identification of a broadcast channel of said instance of said audiovisual content accompanied by an indication of a broadcast time band” Fingerman discloses (col.8, lines 12-44) that the client request submitted to server includes broadcast channel number, broadcast start/end time, etc as represented in Fig. 4.

As to “sending, from the network recorder, a response to the recording request of the user containing, if the request is accepted, an identification of the accepted recording request for each audiovisual content to be recorded” Fingerman discloses (col.9, lines 55-59) that the delivery system sends a message back to client informing client that the program requested to store has been accepted and recorded as represented in Fig. 6.

As to “selecting, by the user using the communications terminal, the network recorder which is configured to record a required audiovisual content and connecting to the network recorder using said access means to request recordation of said audiovisual content” Fingerman discloses (col.3, lines 51-53; col.5, lines 33-36) that the client has an option to access program listing of the other delivery systems and also forwards requests for program recording to

selected delivery systems capable of recording requested programs using Internet. However, Fingerman does not explicitly teach that the network recorder is selected by the user's communications terminal. Ochiai discloses (col.20, lines 42-45) that the user terminal selects and transmits a stream reservation recording request to one of broadcast reception apparatuses in the list as represented in Fig. 6. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Fingerman's system by manually choosing one of the recorders by the user as taught by Ochiai the user can choose a storage with available space to record the entire program.

Regarding **claim 3**, "the method further comprising formulating, by the user, a request to one of cancel an accepted recording request and delete audiovisual content recorded by the network recorder, indicating at least the identification of the accepted recording request" Fingerman discloses (col.10, lines 54-64) that after user's requested program is recorded on the delivery system, system sends a message to client to either watch or erase the program recorded on the delivery device as represented in Fig. 9 (element 607).

Regarding **claim 4**, "the method wherein said means of access to the network recorder includes an address of said network recorder in the communications network" Fingerman discloses (col.6, lines 41-46) that the delivery system, which includes playback server, has Internet address.

Regarding **claim 5**, “the method wherein said means of access to the network recorder includes a directory listing operations specific to a plurality of network recorders, each of said plural network recorders being identified by each operation” Fingerman discloses (col.3, lines 48-56) that the client has access to program listing available at one or more delivery systems, where each delivery device is assigned with a preferred program listing. Fingerman further discloses (col.8, lines 32-35) that the user has an option to select different location listing data, which will response with the program listings for the selected location as represented in Fig. 4 (element 207).

Regarding **claim 6**, “the method wherein said list of broadcast channels whose broadcast audiovisual content is recorded by the network recorder contains an address of each of the broadcast channels, optionally accompanied by a charging policy of the network recorder for each of the broadcast channels” Fingerman discloses (col.6, line 65-col.7, line 3; col.10, lines 43-53) that the user’s provided with the screen where program name, channel number, and fee to store the program on the delivery system are provided as represented in Fig. 8.

Regarding **claim 7**, “the method wherein the declaration of the network recorder in the communications network contains conversion capabilities of said

network recorder” Fingerman discloses (col.3, lines 26-34) that the encoder in the delivery system converts the program into video format requested by the client.

Regarding **claim 8**, “the method wherein said conversion capabilities indicate at least one of bit rate reduction and transcoding of the audiovisual content” Fingerman discloses (col.9, lines 36-41) that the scheduler in delivery system identifies data rate and media format of the client’s device, according to this information, it transcodes signals.

Regarding **claim 9**, “the method wherein the declaration of the network recorder in the communications network contains protocols that the network recorder utilizes to transfer the recorded audiovisual content to the communications terminal of the user” Fingerman discloses (col.3, lines 40-45) that the delivery system provides client with an opportunity to record, view, and/or play back programs (protocols).

Regarding **claim 10**, “the method wherein said broadcast time band indication contains one of the broadcast start time, the broadcast end time and a duration of broadcasting on the broadcast channel of said instance of said audiovisual content” Fingerman discloses (col.8, lines 36-48) that the client

request submitted to server includes broadcast channel number, broadcast start time, etc as represented in Fig. 5.

Regarding **claim 11**, “the method wherein said request contains the conversion capabilities required by the user for transferring the recording to the communications terminal of the user” Fingerman discloses (col.3, lines 22-26) that the request submitted by client to the delivery system includes streaming video format and data rate information.

Regarding **claim 12**, “the method wherein if the request is accepted, the response from the network recorder contains said unique reference of the requested audiovisual content” Fingerman discloses (col.9, lines 55-67) that the upon receiving a request from a client to record the program, scheduler in the delivery system sends a message to a client where message includes the information such as requested program will be available until such date as represented in Fig. 6.

Regarding **claim 13**, “the method wherein if the request is accepted, the response from the network recorder contains at least one of a scheduled end of recording time and a cost of said recording” Fingerman discloses (col.9, lines 45-59) that the message sent back to the client includes a time for scheduled program to end as represented in Fig. 6 and Fig. 11 (element 529).

Regarding **claim 14**, “the method wherein if the request is accepted, the response from the network recorder contains a time period for which the network recorder to keep the recording” Fingerman discloses (col.9, lines 55-67) that the message sent to client includes time period the requested program will be available until in the delivery system as represented in Fig. 6.

Regarding **claim 15**, “the method wherein if the request fails, the response from the network recorder contains a reason for the failure” Ochiai discloses (col.11, lines 9-12) that when request fails due to incorrect PIN, message body of response contains an error constant. In addition, same motivation is used as to reject claim 1.

Regarding **claim 22**, “the method wherein said request to one of cancel the recording request and delete the recorded audiovisual content contains at least one of the unique reference of the recorded audiovisual content and an identifier of the user” Fingerman discloses (col.10, lines 54-64) that after user’s requested program is recorded on the delivery system, system sends a message to client asking to watch or erase the identified program recorded on the delivery device as represented in Fig. 9 (element 603).

Regarding **claim 23**, “the method wherein said request contains an

identification of the user” Fingerman discloses (col.7, lines 7-43) that the user provides information such as email address before submitting a request to record the program as represented in Fig. 3.

Regarding **claim 24**, “the method wherein if the request fails and a plurality of audiovisual content has been requested, the response, from the network recorder to the recording request from the user, contains an identifier of the audiovisual content for which the request has failed” Ochiai discloses (col.20, lines 54-67) that when user terminal transmits a request to record a program on the broadcast reception apparatus and if the broadcast reception apparatus already reserved broadcast recording for other requested programs, then it sends a message that the reception apparatus cannot record a specific program as represented in Fig. 6. In addition, same motivation is used as to reject claim 1.

7. **Claims 2, 16, and 19-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fingerman in view of Ochiai as applied to claim 1 above, and further in view of US PG Pub 2003/0190149 to Chang et al. (hereafter referenced as Chang).

Regarding **claim 2**, “the method further comprising the steps of: sending to the user terminal, by the network recorder, a response to the recording request status request containing at least said identification of the accepted recording request and a status of the request” Fingerman discloses (col.9, lines 55-59) that

the delivery system sends a message back to client informing client that the program requested to store has been accepted and recorded as represented in Fig. 6.

Combination of Fingerman and Ochiai meets all the limitations of the claim except “sending, from the user terminal to the network recorder, if the request is accepted, a recording request status request indicating to the user at least said identification of the accepted recording request.” However, Chang discloses (¶0052) that the recording result of user’s requested program is provided to user in response to a status request from the user. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Fingerman and Ochiai’s systems by sending a status request to a server/delivery device as taught by Chang in order to monitor the status of the user’s requested program.

Regarding **claim 16**, “the method wherein said recording request status request contains at least one of said unique reference of the audiovisual content and an identifier of the user” Chang discloses (¶0051) that the updates transmitted between server and recording device includes the timing of program. In addition, same motivation is used as to reject claim 2.

Regarding **claim 19**, “the method wherein if the request fails, the response to the recording request status request contains the unique reference of the

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requested audiovisual content” Ochiai discloses (col.20, lines 54-67) that when user terminal transmits a request to record a program on the broadcast reception apparatus and if the broadcast reception apparatus already reserved broadcast recording for other requested programs, then it sends a message that the reception apparatus cannot record a specific program as represented in Fig. 6. In addition, same motivation is used as to reject claim 1.

Regarding **claim 20**, “the method wherein if the recorded content is available, the response to the recording request status request contains an address at which the recorded audiovisual content is available” Fingerman discloses (col.9, lines 45-67) that the when the recorded program is available to view, delivery system sends a message as represented in Fig. 6.

Regarding **claim 21**, “the method wherein said response contains at least one of the unique reference of the recorded audiovisual content and a time period for the network recorder to keep the recording” Fingerman discloses (col.9, lines 55-67) that the message sent to client includes time period the requested program will be available until in the delivery system as represented in Fig. 6.

8. **Claims 17 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fingerman in view of Ochiai and Chang as applied to claim 2 above, and further in view of US PG Pub 2002/0184635 to Istvan (hereafter referenced as Istvan).

Regarding **claim 17**, combination of Fingerman, Ochiai, and Chang meets all the limitations of the claim except “the method wherein if the request is unexecuted, the response to the recording request status request contains at least one of the unique reference of the audiovisual content and a scheduled end date and time.” However, Istvan discloses (§0031) that when the request to record a program is not executed by STB, status report is transmitted back to the client device as represented in Fig. 5 (element 532, 534). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Fingerman, Ochiai and Chang’s systems by sending a status report of the device which is unable to execute a request to record a program as taught by Istvan in order to provide up-to-date information about recording status.

Regarding **claim 18**, “the method wherein in cases of an unknown request, the response to the recording request status request contains the unique reference of the requested audiovisual content” Istvan discloses (§0031) that regardless of any kind of request, whether request is accepted or rejected, status report is provided to the client device as represented in Fig. 5 (element 532, 534). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Fingerman, Ochiai and Chang’s

systems by sending a status report of the device which is unable to execute a request to record a program as taught by Istvan in order to provide up-to-date information about recording status.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PINKAL CHOKSHI whose telephone number is (571) 270-3317. The examiner can normally be reached on Monday-Friday 8 - 5 pm (Alt. Friday off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pinkal Chokshi/
Examiner, Art Unit 2425

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425